

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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REO BOREN,

Plaintiff,

v.

BOCCA, et al.,

Defendants.

3:08-cv-00174-LRH (VPC)

ORDER

Before this Court is Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#89<sup>1</sup>) entered on November 13, 2009, recommending granting Defendants' Motion for Summary Judgment (#69), filed on June 25, 2009, as to Counts I and II with prejudice and Count III without prejudice. Plaintiff filed his Objection, entitled "Request for Transfer & Counsel, Opposition to Summary Judgment (sic), Affidavit, Statement, & Reply to Report of Valerie Cooke" (#93) on November 23, 2009, and Defendants filed their Opposition to Plaintiff's Objections to the Report and Recommendation, Motion for Counsel and Motion for Transfer on December 3, 2009 (#94), pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 3-2 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered the objections

<sup>1</sup>Refers to court's docket number.

1 of the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record  
2 pursuant to 28 U.S.C. § 636 (b) (1) and Local Rule IB 3-2. Plaintiff's objections to the Magistrate  
3 Judge's Report and Recommendation fail to present any evidence to the court to demonstrate factual  
4 error in the Magistrate's findings, fail to cite any law or legal authority to show legal error in the law  
5 applied by the Magistrate Judge and fail generally to satisfy the requirements of the Federal Rules of  
6 Civil Procedure or Local Rules 7-2 and 10-2.

7 Although the court appreciates and respects Plaintiff's pro se status, the fact is that even as  
8 a pro se litigant, Plaintiff must present evidence, legal authority and supportable error to sustain his  
9 disagreement and objections to the Magistrate Judge's Report and Recommendation. Plaintiff has  
10 chosen to bring his civil action before this court and, in so doing, it is his responsibility to comply with  
11 the procedural rules and law that apply to every civil litigant. It appears he failed to meet this  
12 requirement before the Magistrate Judge and he has seriously failed to meet it before this court. Good  
13 cause appearing,

14 The Court determines that the Magistrate Judge's Report and Recommendation (#89)  
15 entered on November 13, 2009, should be ADOPTED AND ACCEPTED.

16 Plaintiff and Defendants have also filed the following motions and requests:

- 17 1. Plaintiff's Motion for Leave of Court, to Oppose Dismissal of Case, and Setting for  
18 Trial (#95);
- 19 2. Plaintiff's Opposition to Dismissal and Request for Jury Trial Date (#96); and
- 20 3. Defendants' Motion to Strike Plaintiff's "Motion for leave of Court to Oppose  
21 Dismissal of Case" (#97).
- 22 4. Plaintiff's Opposition to Dismissal and Motion to Compel Discovery (#101);
- 23 5. Plaintiff's Motion for Trial Date A.S.A.P. (#105);
- 24 6. Plaintiff's Motion to Compel Discovery (#106), and
- 25 7. Plaintiff's Motion for Writ of Mandamus (#109).

1 In light of the court's adoption of the Report and Recommendation of the Magistrate, each  
2 of these motions, request, and petition are DENIED AS MOOT. They are also subject to denial for  
3 their failure to comply with the rules of procedure, for lack of legal authority, and lack of jurisdiction.

4 Plaintiff has also filed a request for transfer and counsel (#93). In it he seeks an order from  
5 the court ordering his transfer from one facility of the Nevada State Prison to another. This request is  
6 beyond the court's jurisdiction and is procedurally defective for failure to cite any legal authority that  
7 would support the same. The court lacks jurisdiction to order an intra-facility transfer of a defendant  
8 within the state prison system. The request will, therefore, be treated as a motion and is DENIED.

9 As to Plaintiff's request for counsel contained within (#93), this request has previously been  
10 addressed and denied in Order (#41). The court adopts and incorporates the reasons previously set  
11 forth in Order (#41) for the denial of this request, will treat it as a motion, and it is DENIED.

12 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation  
13 (#89) entered on November 13, 2009, is adopted and accepted, and Defendant's Motion for Summary  
14 (#69) is GRANTED as to Counts I and II with prejudice and Count III without prejudice.

15 Motions (#93, 95, 96, 97, 101, 105, and 106) are DENIED.

16 Plaintiff's Petition for Writ of Mandamus (#109) is dismissed without prejudice.

17 IT IS SO ORDERED.

18 DATED this 11<sup>th</sup> day of February, 2010.

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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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